

REMARKS / DISCUSSION OF ISSUES

Claims 1-20 are pending in the application.

Claim 14 is amended to place it in condition for allowance. The Office action indicates that claim 14 would be allowable if rewritten in independent form including all of the limitations of its base claim and any intervening claims; claim 14 is correspondingly amended herein. Claim 14 is not narrowed in scope and no new matter is added. Entry after final action is proper because the scope of the claims is not changed and no further searching is required.

The Office action rejects claims 11-13, 15-18, and 20 under 35 U.S.C. 102(e) over Ma et al. (USP 6,677,709, hereinafter Ma). The applicants respectfully traverse this rejection.

MPEP 2131 states:

"A claim is anticipated only if **each and every element** as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The **identical invention** must be shown in as **complete detail** as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Claim 11, upon which each of the other rejected claims depends, claims a display device that includes light emitting elements that are operably coupled to first electrodes, and a foil with an electrically conductive layer that is configured to provide selective contact to select light emitting elements based on a potential difference between the foil and select electrodes of second electrodes.

Ma fails to teach a foil with a conductive layer that is configured to provide selective contact to select light emitting elements based on a potential difference between the foil and select electrodes of second electrodes.

The Office action does not show that Ma teaches a foil with a conductive layer that is configured to provide selective contact to select light emitting elements based on a potential difference between the foil and select electrodes of second electrodes.

Instead, the Office action asserts that the claimed configuration of the foil is a functional recitation that does not distinguish the structure of Ma from the applicants' claimed structure. The applicants respectfully disagree with this assertion.

The applicants respectfully maintain that the arrangement of the foil such that contact can be effected based on a potential difference between the foil and a second electrode is a structural limitation, and this structural limitation is not taught by Ma. The structure of Ma's device precludes providing contact based on a potential difference between the foil and second electrodes. Ma's structure includes the second electrodes on the same foil as the conductive layer that provides contact with the light emitting elements and thereby makes the selection of the contact with the light emitting elements independent of the potential between the foil and the second electrodes.

The Office action references MPEP 2114 for justifying this rejection based on structural vs. functional language limitations. The applicants respectfully note that the distinction noted in MPEP 2114 relates to attempting to claim different functions that can be performed by the same structure. As noted in MPEP 2114: "The absence of a disclosure in a prior art reference relating to function did not defeat the Board's finding of anticipation of claimed apparatus ***because the limitations at issue were found to be inherent in the prior art reference***" (emphasis added). Assuming in argument that claim 11 recites a limitation to the structure that relates to a functional limitation, the claimed functional limitation is not inherent in Ma, because Ma's structure cannot effect the claimed functional limitation.

Because Ma's structure is substantially different from the applicants' claimed structure, in that Ma's structure cannot effect selective pixel activation based on a potential difference between two other structural elements, as specifically claimed in claim 11, the applicants respectfully maintain that the rejection of claims 11-13, 15-18, and 20 under 35 U.S.C. 102(e) over Ma is unwarranted, per MPEP 2131 and MPEP 2114.

In view of the foregoing, the applicants respectfully request that the Examiner withdraw the objection(s) and/or rejection(s) of record, allow all the pending claims, and find the application to be in condition for allowance. If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert M. McDermott", written over a horizontal line.

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